IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

Richmond Division

UNITED STATES OF AMERICA)
)
v.) Criminal No. 3:22-cr-3
)
KORTNEY THOMAS KELLEY,)
)
Defendant.)

GOVERNMENT'S RESPONSE IN SUPPORT OF THE DEFENDANT'S POSITION THAT THE DEFENDANT IS COMPETENT TO STAND TRIAL

The United States of America, through undersigned counsel, submits the following response in support of the defendant's Position that Mr. Kelley is Competent to Proceed (ECF No. 26). Based on the findings of the Court-appointed psychiatric examiner and statements by the defense, both concluding that KORTNEY THOMAS KELLEY is competent to stand trial, the Court should find the defendant competent to stand trial.

On May 31, 2022, the government moved this Court to appoint an independent psychiatric examiner to perform a competency examination of the defendant, KORTNEY THOMAS KELLEY. ECF No. 19. On June 2, 2022, the Court vacated trial deadlines, set a competency hearing for the defendant on September 6, 2022 at 11:00 a.m., and appointed psychiatric examiner Dr. Evan Nelson to perform a competency examination of the defendant. ECF No. 22. Dr. Nelson completed his psychiatric examination of the defendant on July 18, 2022, finding that the defendant is competent to proceed to trial and "possessed a rational and adequately factual understanding of a trial and the roles of courtroom personnel and possessed the capacity to assist counsel in preparing a defense." Moreover, on August 4, 2022, the defense

filed a position asserting that "Mr. Kelley is competent to proceed to trial in this matter" and "Mr. Kelley is able to consult with [counsel] with a reasonable degree of rational understanding and has a rational as well as a factual understanding of the proceedings against him." ECF No. 26.

Based on the conclusions of Dr. Evan Nelson and the defense, that KELLEY is competent to proceed to trial, the government asks the Court to find KELLEY competent to stand trial.

Respectfully submitted,

JESSICA D. ABER UNITED STATES ATTORNEY

By: /s/

Avi Panth VSB No. 92450 Assistant United States Attorney United States Attorney's Office 919 East Main Street, Suite 1900 Richmond, Virginia 23219-2447

Telephone: 804-819-5400 Fax: 804-771-2316

1 un: 001 //1 2510

Email: avishek.panth@usdoj.gov